

SENATE BILL 952

Q3

3lr3058

By: **Senator McCray**

Introduced and read first time: February 24, 2023

Assigned to: Rules

Re-referred to: Budget and Taxation, March 3, 2023

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2023

CHAPTER _____

1 AN ACT concerning

2 **Historic Revitalization Tax Credit – Credit Amounts and Funding – Alterations**

3 FOR the purpose of altering the calculation of and certain limitations on a certain credit
4 against the State income tax for certain rehabilitation projects under the historic
5 revitalization tax credit program; altering the amount of certain appropriations that
6 the Governor, in certain fiscal years, is required to include in the annual budget bill
7 for the Historic Revitalization Tax Credit Reserve Fund and the Small Commercial
8 Project Trust Account within the Reserve Fund; and generally relating to the historic
9 revitalization tax credit program.

10 BY repealing and reenacting, without amendments,
11 Article – State Finance and Procurement
12 Section 5A–303(a)(1), (8), (16), (18), (19), (28), and (30) and (e)
13 Annotated Code of Maryland
14 (2021 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Finance and Procurement
17 Section 5A–303(c)(1) and (2) and (d)(3)(iv) and (4)
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2022 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – State Finance and Procurement

5A-303.

(a) (1) In this section the following words have the meanings indicated.

(8) (i) “Commercial rehabilitation” means a rehabilitation of a structure other than a single-family, owner-occupied residence.

(ii) “Commercial rehabilitation” does not include a small commercial project.

(16) “High performance building” means a building that:

(i) meets or exceeds the current version of the U.S. Green Building Council’s LEED (Leadership in Energy and Environmental Design) green building rating system gold rating; or

(ii) achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard approved by the Secretaries of Budget and Management and General Services under § 3-602.1 of this article.

(18) “Level 1 opportunity zone project” means a small commercial project or commercial rehabilitation completed by a qualified opportunity zone business if the following information is provided to the Director:

(i) the date of the qualified opportunity fund’s investment in the opportunity zone project and the amount of the investment;

(ii) the total project or business investment, including any leverage;

(iii) the address and census tract of the qualified opportunity zone business and the qualified opportunity fund;

(iv) the North American Industrial Classification System Code for the qualified opportunity zone business;

(v) an impact report, including both qualitative and quantitative data on the qualified opportunity fund’s investment in the opportunity zone project and its progress; and

(vi) any other information requested by the Director.

(19) “Level 2 opportunity zone project” means a small commercial project or commercial rehabilitation completed by a qualified opportunity zone business if:

1 (i) the requirements for a Level 1 opportunity zone project are met;

2 (ii) 1. accountability to residents of the communities in the
3 qualified opportunity zone is maintained through their representation on any governing
4 board or any advisory board of the qualified opportunity zone business; or

5 2. a community benefits agreement is negotiated and agreed
6 to by community groups or strategic industry partnerships, as defined under § 11–701 of
7 the Labor and Employment Article, in the opportunity zone and the qualified opportunity
8 zone business that specifies a range of community benefits that the business agrees to
9 provide as part of the development project; and

10 (iii) 1. for an opportunity zone project located entirely within a
11 municipal corporation, the municipal corporation, by resolution or by letter, delivered to
12 the Director by the municipal corporation’s authorized designee, approves the provision
13 within the municipal corporation of the enhanced tax credits under this section; or

14 2. for an opportunity zone project that is not located entirely
15 within a municipal corporation, the county, by resolution or by letter, delivered to the
16 Director by the county’s authorized designee, approves the provision within the county of
17 the enhanced tax credits under this section.

18 (28) “Qualified rehabilitation expenditure” means any amount that:

19 (i) is properly chargeable to a capital account;

20 (ii) is expended in the rehabilitation of a structure that by the end of
21 the calendar year in which the certified rehabilitation is completed is a certified historic
22 structure;

23 (iii) is expended in compliance with a plan of proposed rehabilitation
24 that has been approved by the Director; and

25 (iv) is not funded, financed, or otherwise reimbursed by any:

26 1. State or local grant;

27 2. grant made from the proceeds of tax–exempt bonds issued
28 by the State, a political subdivision of the State, or an instrumentality of the State or of a
29 political subdivision of the State;

30 3. State tax credit other than the tax credit under this
31 section; or

32 4. other financial assistance from the State or a political
33 subdivision of the State, other than a loan that must be repaid at an interest rate that is

1 greater than the interest rate on general obligation bonds issued by the State at the most
2 recent bond sale prior to the time the loan is made.

3 (30) "Small commercial project" means a rehabilitation of a structure if:

4 (i) the qualified rehabilitation expenditures do not exceed \$500,000;
5 and

6 (ii) 1. the structure is primarily used for commercial,
7 income-producing purposes;

8 2. the structure:

9 A. is a residential unit in a consecutive series of similar
10 residential units that are arranged in a row, side by side; and

11 B. is sold as part of a development project for exclusive
12 occupancy to, and occupied by, the resident;

13 3. the structure is a targeted project; or

14 4. the structure is a condominium or cooperative project and
15 the rehabilitation targets only the common elements of the condominium or cooperative
16 project.

17 (c) (1) (i) Except as otherwise provided in this section, for the taxable year
18 in which a certified rehabilitation is completed, an individual or business entity may claim
19 a tax credit in an amount equal to 20% of the individual's or business entity's qualified
20 rehabilitation expenditures for the rehabilitation.

21 (ii) For a commercial rehabilitation, an individual or business entity
22 may claim an additional tax credit in an amount equal to **[5%]** ~~10%~~ 7.5% of the individual's
23 or business entity's qualified rehabilitation expenditures if the certified rehabilitation is a
24 certified historic structure and:

25 1. is a high performance building; or

26 2. qualifies as affordable housing or a Level 1 opportunity
27 zone project.

28 (iii) For a commercial rehabilitation, a business entity may claim an
29 additional tax credit in an amount equal to **[7.5%]** ~~12.5%~~ 10% of the business entity's
30 qualified rehabilitation expenditures if the certified rehabilitation is a certified historic
31 structure and qualifies as a Level 2 opportunity zone project.

32 (2) (i) For any commercial rehabilitation, the State tax credit allowed
33 under this section may not exceed the lesser of:

1 1. A. ~~[\$5,000,000] ~~\$10,000,000~~ \$7,500,000~~ for any
2 commercial rehabilitation other than a Level 1 or Level 2 opportunity zone project;

3 B. ~~[\$5,250,000] ~~\$10,500,000~~ \$7,750,000~~ for a Level 1
4 opportunity zone project; or

5 C. ~~[\$5,500,000] ~~\$11,000,000~~ \$8,000,000~~ for a Level 2
6 opportunity zone project; or

7 2. the maximum amount specified under the initial credit
8 certificate issued for the rehabilitation.

9 (ii) For a rehabilitation other than a commercial rehabilitation, the
10 State tax credit allowed under this section may not exceed:

11 1. ~~[\$50,000] ~~\$100,000~~ \$75,000~~ for a rehabilitation other
12 than a Level 1 or Level 2 opportunity zone project;

13 2. ~~[\$55,000] ~~\$110,000~~ \$80,000~~ for a Level 1 opportunity
14 zone project; or

15 3. ~~[\$60,000] ~~\$120,000~~ \$85,000~~ for a Level 2 opportunity
16 zone project.

17 (iii) For the purposes of the limitation under subparagraph (i) of this
18 paragraph, the following shall be treated as a single commercial rehabilitation:

19 1. the phased rehabilitation of the same structure or
20 property; or

21 2. the separate rehabilitation of different components of the
22 same structure or property.

23 (d) (3) (iv) 1. Subject to subparagraph 2 of this subparagraph, for
24 each of fiscal years 2018 through 2031, the Governor shall include in the budget bill an
25 appropriation to the Reserve Fund.

26 2. A. For each of fiscal years 2023 [through 2031] AND
27 **2024**, the Governor shall include in the budget bill an appropriation to the Reserve Fund
28 of at least \$20,000,000.

29 B. **FOR EACH OF FISCAL YEARS 2025 THROUGH 2031,**
30 **THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
31 **RESERVE FUND OF AT LEAST ~~\$50,000,000~~ \$25,000,000.**

1 3. The amount described under subparagraph 2 of this
2 subparagraph shall be in addition to the appropriations to the Trust Account required
3 under paragraph (4) of this subsection.

4 (4) (i) Within the Reserve Fund, there is a Small Commercial Project
5 Trust Account.

6 (ii) 1. The Trust Account is established for the issuance of tax
7 credit certificates for small commercial projects.

8 2. Funds in the Trust Account shall be used only for transfers
9 from the Reserve Fund to the General Fund in accordance with paragraph (5) of this
10 subsection with respect to tax credit certificates issued for small commercial projects.

11 (iii) The Trust Account consists of:

12 1. money appropriated in the State budget for the Trust
13 Account; and

14 2. any other money from any other source accepted for the
15 benefit of the Trust Account.

16 (iv) 1. For [each of] fiscal [years] YEAR 2024 [through 2031], the
17 Governor shall include in the budget bill an appropriation to the Trust Account of at least
18 \$2,000,000.

19 2. **FOR EACH OF FISCAL YEARS 2025 THROUGH 2031,**
20 **THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
21 **TRUST ACCOUNT OF AT LEAST ~~\$2,000,000~~ \$5,000,000.**

22 (e) (1) Subject to the provisions of this subsection, the Director shall issue an
23 initial credit certificate for each approved small commercial project on a first-come,
24 first-served basis.

25 (2) An initial credit certificate issued under this subsection shall state the
26 maximum amount of tax credit for which the applicant is eligible.

27 (3) (i) Before fiscal year 2024, the Director may not issue an initial
28 credit certificate under this subsection after the aggregate amount of initial credit
29 certificates issued for small commercial projects totals \$5,000,000.

30 (ii) Before fiscal year 2024, for a targeted project, the Director may
31 not issue an initial credit certificate under this subsection:

32 1. after the aggregate amount of initial credit certificates
33 issued for agricultural structures totals \$1,000,000; or

1 2. after the aggregate amount of initial credit certificates
2 issued for post–World War II structures totals \$1,000,000.

3 (iii) Beginning fiscal year 2024 and each fiscal year thereafter, the
4 Director may not issue initial credit certificates for small commercial projects under this
5 subsection for credit amounts in the aggregate totaling more than the amount of funds in
6 the Small Commercial Project Trust Account established under subsection (d)(4) of this
7 section.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.